

**ORDINANCE NO. 9
SERIES 2014**

AN ORDINANCE AMENDING CHAPTER 5.40 OF THE GUNNISON MUNICIPAL CODE RELATING TO ANIMALS.

WHEREAS, city staff has recommended changes to Chapter 5.40, Animals, of the Gunnison Municipal Code (G.M.C.); and

WHEREAS, the City wishes to protect the community by modifying the City of Gunnison Municipal Code; and

WHEREAS, the City Council finds that such changes would benefit the health, safety and welfare of the City's residents and, therefore, is in the City's best interest.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF GUNNISON, COLORADO, ORDAINS THAT:

Section 1. G.M.C. Chapter 5.40, Animals, is amended to read as follows:

Sections:

5.40.010	Definitions.
5.40.020	Licensing.
5.40.030	Disease control.
5.40.040	Animal treatment.
5.40.050	Animal control and restraint.
5.40.060	Animal nuisance abatement.
5.40.070	Animal shelter.
5.40.080	Enforcement and penalties.

5.40.010 Definitions.

As used in this chapter, the following terms are defined as provided:

- A. "Animal" means every nonhuman species of the animal kingdom, both domestic and wild.
- B. "Animal-at-large" means any animal off the premises of the owner and not under the direct control of a person capable of controlling the animal.
- C. "Animal control officer" means any person designated by the municipal government as a law enforcement officer for the purpose of enforcing the provisions of this chapter.
- D. "Animal shelter" means any facility operated by a humane society, non- profit organization, or government agency or its authorized agents, for the purpose of impounding animals under the authority of this chapter or state law for care, confinement, return to owner, adoption, or euthanasia.
- E. "Bite" means to be seized by an animal with the teeth or jaws so that a person or animal has been nipped, gripped, wounded, or pierced.
- F. Breeder.
 - 1. "Professional" means any person who breeds animals for profit or who produces more than two litters of animals in any one calendar year.
 - 2. "Hobbyist" means any person who breeds animals as a hobby, producing not more than two litters in any one calendar year.
- G. "Cat" means any domesticated member of the animal species *Felis catus*.
- H. "Commercial animal establishment" means any pet shop, grooming shop, guard dog training facility, animal auction, riding school or stable, zoological park, circus, performing animal exhibition, boarding or breeding kennel, or other establishment which handles live animals for profit except commercial ranching operations.
- I. "Control" means an animal must be on a leash, suitable for the activity involved in, controlled by a person physically competent to control the animal; or within the property limits of its owner or harbored or upon the premises of another person with the consent of that person.

- J. "Dangerous dog" means any dog that:
1. Inflicts bodily or serious bodily injury upon or causes the death of a person or domestic animal; or
 2. Demonstrates tendencies that would cause a reasonable person to believe that the dog may inflict bodily or serious bodily injury upon or cause the death of any person or domestic animal; or
 3. Engages in or is trained for animal fighting as described and prohibited in section 18-9-204.
- K. "Dog" means any member of the animal species *Canis familiaris* or a domesticated animal related to the fox, wolf, coyote, or jackal which is used as a pet or service animal.
- L. "Domestic animal" includes: dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants, and other birds; and animals raised and/or maintained in confinement, including small, harmless pet animals, such as species of aquarium fish, cage birds, and certain rodents, such as mice, hamsters, and guinea pigs.
- M. "Dwelling unit" means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation for not more than one family.
- N. "Euthanasia" means a death brought about by any method which produces rapid loss of consciousness resulting in a painless death.
- O. "Feral cat" is defined as a cat born and raised in the wild, or who has been abandoned or lost and turned to wild ways in order to survive.
- P. "Kennel or cattery" means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.
- Q. "Licensing authority" means the municipal governing body or anybody designated by the municipal governing body to have authority to promulgate rules pursuant to this chapter and to enforce the provisions of this chapter.
- R. "Owner" means any person, partnership, or corporation owning, keeping, harboring, possessing, or having custody or control of one or more animals. "Harboring" an animal includes providing food or shelter for three consecutive days or more.
- S. "Person" means any individual, firm, corporation, partnership, association, trust, estate, or other legal entity.
- T. "Pest species" means all animals commonly known as starlings, rock pigeons, skunks, prairie dogs, black and Norway rats, common house mice, and all insects or spiders generally considered pests.
- U. "Pet" means any animal kept for pleasure rather than utility, especially any animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.
- V. "Pet shop" means any person, partnership, or corporation, whether operated separately or in connection with another business enterprise that buys, sells, or boards any species of animal.
- W. "Vicious animal" means any animal that, without provocation, bites or attacks humans or other animals; approaches any person or other animal in a vicious or terrorizing manner or in apparent attitude of attack, whether or not the attack is consummated or is capable of being consummated; or has acted in a manner that causes or should cause its owner to know that it is potentially vicious.
- X. "Wild animal" means any animal, including those born or raised in captivity, except for human beings and domestic animals.

5.40.020 Licensing.

A. Licensing.

1. License Requirement. Any person owning, keeping, harboring, or having custody of any dog or cat over six months of age within this municipality must obtain a license as herein provided.
2. Application. Written application for licenses, which shall include name and address of applicant, description of the animal, the appropriate fee, and rabies certificate issued by a licensed veterinarian or anti-rabies clinic, shall be made to the licensing authority.
3. License Period. If not revoked, licenses for the keeping of dogs and cats shall be valid for a period of one year. Such a license may be renewed annually. The annual licensing period shall begin on June 1st.
4. Circumstances Requiring Application. Applications for licenses must be made within 30 days after obtaining a dog or cat six months of age or older, or when a cat or dog in one's possession becomes six months of age. This requirement does not apply to a nonresident keeping a dog or cat within the municipality for 90 days or less.
5. Exceptions. License fees shall not be required for certified governmental police dogs or service animals. They shall be licensed for identification purposes.
6. Additional Regulations. The licensing authority may promulgate other regulations governing the issuance of licenses. Such regulations may include requirements for human care of animals and other requirements consistent with this chapter and other applicable law. The licensing authority may amend such regulations from time to time as is deemed desirable for the preservation of the public health and welfare and to prevent animal cruelty.
7. Tags. Upon acceptance of the license application, fee, and agreement to follow all applicable regulations, the licensing authority shall issue a durable tag, stamped with an identifying number and the year of issuance. Tags should be designed so that they may be conveniently fastened or riveted to the animal's collar or harness. Dogs and cats must wear the identification tags issued for them, and not that of any other, at all times when off their owners' premises. The licensing authority shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public at all times.
8. Fee Schedule. Licensing fees shall be set by City Council and recorded by resolution.
9. Duplicate Licenses. A duplicate license may be obtained upon payment of a replacement fee, set by City Council and recorded by resolution.
10. License Limitation. No person may use any license for any animal other than the animal for which it was issued.

5.40.030 Disease control.

- A. Diseased Animals. No domestic animal afflicted with a contagious or infectious disease shall be allowed to run at large or to be exposed in any public place whereby the health of human or animal may be affected.
- B. Rabies Vaccination – Dogs and Cats. It shall be the duty of every owner of a dog or cat over six months of age harbored in the municipality to have such a dog or cat vaccinated by a licensed veterinarian or animal health clinic. The owner of such dog or cat shall present a copy of the vaccination certificate with the dog or cat license application required by G.M.C. 5.40.020(A) verifying a current vaccination administered as authorized by the Department of Health.
- C. Rabies Vaccination Exemption. If a veterinarian licensed by the state issues a certificate that inoculation would be harmful to a specific dog or cat, and that failure to inoculate such animal shall not create a danger for humans or other animals, that dog or cat shall be exempt from the inoculation prescribed by this chapter.
- D. Report of Animal Bites.

1. Any owner whose animal bites a person shall immediately notify the animal control officer or police department of the municipality.
 2. It shall be the duty of every medical licensee practicing in the municipality to report to the animal control officer or the police department the name and address of any person treated for bites or wounds inflicted by an animal, together with all available information necessary for rabies control.
 - a. Any licensee who, in good faith, makes a report pursuant to this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of such report, and shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.
 3. It shall be the duty of every veterinarian practicing in the municipality to report to the animal control officer or the police department the name and address of the owner of any animal treated for bites or wounds inflicted by any other animal, together with all available information necessary for rabies control.
- E. Quarantine of Animals Suspected of Having Rabies. Animals suspected of having rabies or having bitten any person or animal and having an uncertain vaccination status shall be impounded in solitary confinement and kept under observation for a period of 10 days. An attempt shall be made by the animal control officer to discover whether the animal has been vaccinated against rabies. If it is found that the animal has not been effectively vaccinated or there is any doubt whether the animal has in fact been vaccinated, then it shall be vaccinated on the last day of the observation period. The municipality may cause any animal which has rabies to be destroyed humanely and an autopsy performed. All expenses in connection with the provisions of this subsection shall be borne by the owner of the animal.
- F. Killing of Certain Animals Which Cannot Be Safely Captured or Impounded. If any vicious or dangerous animal suspected of or having rabies, found at large, cannot be safely taken up and impounded, the animal may be euthanized by a police officer.

5.40.040 Animal treatment.

- A. Cruelty to Animals.
1. Infliction of Pain or Death. No person shall knowingly, intentionally, or maliciously kill or injure or inflict pain or suffering on any animal. No person shall permit, by neglect or inaction, the death or injury or infliction of pain or suffering on any animal. No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse or kill an animal or cause, instigate, or permit any fight between animals or between animals and humans, or attend such fights.
 2. Proper Food and Shelter. No owner or person with custody of an animal for more than 12 consecutive hours shall fail to provide the animal with sufficient wholesome and nutritious food, water in sufficient quantities, proper air, shade or shelter space, protection from the weather, veterinary care as needed to maintain health and prevent suffering, and other humane care and treatment.
 - a. "Shade" shall mean protection from the direct rays of the sun during the months of June through September.
 - b. "Shelter" shall mean a moisture-proof structure of suitable size to accommodate the animal and allow retention of body heat, made of durable material with a solid floor raised at least two inches from the ground. Such structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness.
 - c. All pens, yards, or runs, or other structures wherein any animal is kept shall be of such construction so as to be easily cleaned and shall be maintained in good repair. Fences which are intended as enclosures for any animal shall be securely constructed, adequate for the purpose, and kept in good repair, in compliance with all ordinances of the municipality.

- d. Agricultural operations involving large animals are exempt from shade and shelter requirements.
 - 3. Abandonment. No person shall abandon any animal which they own or is in their custody. In this context, "abandon" means to leave the animal unattended for more than 48 consecutive hours or without food, water, or shelter for more than 12 hours.
 - 4. Poisoning. No person shall expose any known poisonous substance, whether mixed with food or not, so that a reasonable person would know or should know that such substance would probably cause animals to be attracted thereto, eat thereof, and be poisoned thereby; however, this subsection does not make unlawful the poisoning of rats or mice with commercial rat poison mixed with vegetable substances.
 - 5. Sale of Chickens, Ducks, and Rabbits. Chickens, ducks, or rabbits younger than eight weeks of age may not be sold in quantities of fewer than 25 to a single purchaser.
 - 6. Animals as Prizes. No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter any place of amusement, or as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
 - 7. Confinement in Vehicles. No person shall confine an animal within a parked, closed vehicle without allowing cross-ventilation. Under no circumstances shall a person confine any animal in any parked, closed vehicle for more than 30 minutes, or where the temperature in the vehicle exceeds 90 degrees Fahrenheit. Any animal control or police officer observing an animal kept in violation of this section may enter the vehicle and impound the animal. In addition to all other defenses and immunities provided by law, any such officer making entry for the purpose of this section is immune from suit or liability, criminal or civil, for, caused by, or arising out of such entry.
 - 8. Protective Custody.
 - a. Any animal found receiving inhumane treatment, as described in this section, may be removed and impounded at the expense of the owner.
 - b. Any animal whose life reasonably appears to be endangered may be so removed and impounded, whether or not in the presence of its owner.
 - 9. Exceptions to G.M.C. Section 5.40.040.
 - a. Nothing in subsection (A) of this section shall be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine.
 - b. Nothing in subsection (A) of this section shall be interpreted as prohibiting any act done in self-defense or to defend another person.
 - c. Nothing in subsection (A) prohibits any conduct authorized or permitted under title 33, C.R.S.
 - d. It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, other livestock or wildlife.
- B. Commercial Animal Establishments – Other Domestic Animal Regulations.
- 1. Generally. All commercial animal establishments shall meet the following conditions:
 - a. Animal housing facilities shall be provided for the animals and shall be structurally sound, constructed of nontoxic materials, maintained in good repair, and designed so as to protect the animals from injury and restrict the entrance of other animals. Each animal shall be provided with adequate floor space to allow it, according to species and breed, to breathe and turnabout freely and to easily eat, eliminate wastes, stand, sit, and lie in a comfortable, normal position and sanitary environment.

- b. Water shall be supplied at sufficient pressure and quantity to clean housing facilities and enclosures of debris and excreta.
- c. Adequate food and bedding shall be provided and stored in facilities which provide protection against infestation or contamination by insects or rodents. Refrigeration shall be provided for the protection of perishable foods.
- d. Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease.
- e. Each animal shall be observed daily. Sick, diseased, or injured animals shall be separated from those appearing healthy and normal. Sick, diseased, or injured animals shall be removed from display and sale and kept in isolation quarters. Ventilation of quarters for sick or diseased animals shall be arranged to avoid contamination of healthy animals.
- f. An employee, keeper, or owner shall make provision to feed, water, and provide other necessary care for animals on days the store or establishment is closed.
- g. No person shall knowingly misrepresent an animal to a consumer in any way. No person shall knowingly sell a sick or injured animal. Adequate care and feeding instructions shall be given, in writing, to each animal purchaser.
- h. Animals which are caged, closely confined, or restrained shall be permitted to exercise daily, for an appropriate length of time as determined by their size, age, and species, in an area suitable for that purpose.
- i. Facilities shall be clean and sanitary at all times.

2. Domestic Animals.

- a. It shall be unlawful to maintain any dog house or poultry or animal yard within 25 feet of any building used for residential purposes by anyone other than the one maintaining such dog house, poultry, or animal yard, or his or her immediate family, or within 25 feet of any public way other than an alley, or within 100 feet of any church or school building.
- b. For the purpose of this chapter, the term "poultry or animal yard" shall include every enclosure, shed, or structure used to house one or more live fowl (included in the term "fowl" are chickens, ducks, geese, and other poultry) or one or more cattle, horses, sheep, goats, or other domestic animals.
- c. Every person maintaining a poultry or animal yard shall keep the same clean and sanitary and free from all refuse.

3. Performing Animal Exhibits.

- a. No person is permitted to exhibit any animal performance in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause or probably cause physical injury, pain, suffering, or irritation to any such animal.
- b. All equipment used on any performing animal shall fit properly and be in good working condition.

C. Animals Injured by Motor Vehicles. Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and shall immediately report the accident to the appropriate law enforcement agency.

D. Wildlife Sanctuary

- 1. The entire area within the corporate limits of the municipality is a wildlife sanctuary for the refuge of all wildlife, and all persons within the municipality are urged to protect said

wildlife and encourage its propagation. "Wildlife," as used in this subsection, includes all native or naturalized wild animals except pest species.

2. No person shall at any time within the corporate limits of this municipality frighten, shoot at, wound, kill, capture, ensnare, trap, net, poison, or in any other manner kill, injure, or molest any wildlife or injure the nest, den, eggs, or young of such animals. All municipal, state, and federal authorities possessing wildlife control jurisdiction authorized to kill or capture any wild animal are exempted from this provision.

5.40.050 Animal control and restraint.

A. Running at Large.

1. Generally. No person shall suffer or permit any domestic animal of which he or she is the owner, caretaker, or custodian to run at large within the municipality. Any such animal shall be deemed to be running at large when it shall be off the premises owned or rented by its owner and not under the control of the owner or an agent or employee of the owner. Any such animal may be impounded by the municipality.
 - a. Control as defined by ordinance requires the use of a leash being held by a person capable of controlling the animal. The leash requirement is waived for animals typically moved by herding provided the owner or person in control is present and engaged in moving the animal(s) from one location to another.
2. Public Places. No domestic animal shall be permitted in any public place, unless under the control of its owner. "Public places" include, but are not limited to, public property, common areas of private property, parking lots, churches, cemeteries, parks, schools, and swimming areas.

B. Dangerous Animals.

1. Dangerous dog
 - a. Ownership of a dangerous dog prohibited. A person commits ownership of a dangerous dog if such person owns, possesses, harbors, keeps, has a financial or property interest in, or has custody or control over a dangerous dog.
 - b. The animal control officer, neighborhood services officer, or any police officer may impound any animal which is reasonably believed to be a dangerous dog
 - (1) Dogs not in compliance with G.M.C. Section 5.40.030(E), Disease Control, will remain in impound.
 - (2) Dogs in compliance with G.M.C. 5.40.030(E), Disease Control, may be released to the owner provided the owner can assure that the dog will remain under the owners' control, that the owner will present the dog for inspection on request of the animal control officer, and that the owner will report any change in the animal's health to animal control officer until case is resolved.
 - (3) Dogs owner may request the animal be housed in a facility licensed to board and care for animals, at the owner's expense.
 - c. An affirmative defense to the violation of this subsection shall be:
 - (1) That, at the time of the attack by the dangerous dog which causes injury to or the death of a domestic animal, the domestic animal was at large, was astray, and entered upon the property of the owner and that the attack began, but did not necessarily end, upon such property;
 - (2) That, at the time of the attack by the dangerous dog which causes injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dangerous dog or its owner;
 - (3) That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or

attempting to commit a criminal offense, other than a petty offense, against the dog's owner, and the attack did not occur on the owner's property;

- (4) That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the owner's property or the property itself and the attack began, but did not necessarily end, upon such property; or
- (5) That the person who was the victim of the attack by the dangerous dog tormented, provoked, abused, or inflicted injury upon the dog in such an extreme manner which resulted in the attack.

- d. The affirmative defenses set forth in G.M.C. Section 5.40.050(B)(1)(c) shall not apply to any dog that has engaged in or been trained for animal fighting as said term is described in section 18-9-204, C.R.S.
- e. Identification of dog upon conviction. At the owner's expense, permanently identify the dangerous dog through the implantation of a microchip by a licensed veterinarian or a licensed shelter. A veterinarian or licensed shelter that implants a microchip in a dangerous dog shall report the micro chipping information to the Colorado Department of Agriculture within ten days after implantation of the microchip, pursuant to section 35-42-115(2), C.R.S.
- f. Condition of ownership upon conviction. The court as part of sentencing may establish conditions to be met by the owner for continued ownership.

2. Vicious Animals.

- a. It shall be unlawful for any person to keep or harbor any vicious animal within the municipality.
- b. The animal control officer, neighborhood services officer, or any police officer may impound any animal which is reasonably believed to be vicious. At the request of the owner of the impounded animal, within five days of the date the animal is impounded either the animal shall be released to the owner thereof or the owner shall be charged with a violation.
- c. It shall be an affirmative defense to charges under G.M.C. Section 5.40.050 (B)(2)(b) that the actual or intended victim of any attack has made an unlawful entry into the dwelling of the animal's owner or is threatening or attacking an owner of the animal.

3. Wild and Dangerous Animals.

- a. Unlawful to Own or Possess. It shall be unlawful for any person to own, possess, harbor, sell, or in any other manner traffic in any wild and vicious animals, including, but not limited to, the following:
 - (1) All poisonous snakes and other poisonous reptiles; and all nonpoisonous snakes with a length greater than six feet;
 - (2) All species of primates;
 - (3) All species of canine, feline, bear, and other carnivorous animals other than dogs and cats, as defined within this chapter.
- b. Exceptions. The provisions of subsection (B) of this section shall not be applicable to any bona fide zoological park, wildlife sanctuary, research facility or any circus licensed by the city.

4. Costs to Be Paid by Responsible Persons. Any reasonable costs incurred by the municipality in seizing, impounding, and confining any dangerous, wild, or vicious

animal shall be charged against the owner of such animal. Such charge shall be in addition to any other fine or penalty provided for violating this chapter.

5. Destruction of Animal Too Dangerous to Capture. Any dangerous animal subject to impoundment under the provisions of G.M.C. Section 5.40.050(B), or any other animal which because of its disposition or diseased condition is subject to impoundment and is deemed too dangerous to apprehend, may be destroyed by a police officer.

C. Public Parks.

1. No person shall appear with an animal in those portions of the public parks of the city of Gunnison which are enclosed by fencing and are posted with signs prohibiting dogs or other animals from being brought upon the premises. This subsection shall not apply to service dogs.
2. The city may establish public areas to be utilized by the public for the exercising, training and enjoyment of their animals. Such area will be clearly marked and animals may be off leash, when inside the designated area.
 - a. Use of public areas for this purpose will be at the user's own risk.
 - b. The official rules or signs posted for users of the area will be followed.
3. The city maintains parks and open spaces for recreational enjoyment. These areas are considered public areas or public ways and this Chapter 5.40 applies to all areas of a public park or open space.

5.40.060 Animal nuisance abatement.

A. Restrictions.

1. Generally. No animal owner shall fail to exercise proper care and control of his or her animals to prevent them from becoming a public nuisance. A "public nuisance" includes any of the occurrences listed in G.M.C. Section 5.40.060 of this section as well as any other occurrence determined by the governing body or a court of competent jurisdiction or law.
2. Noise. No animal owner shall permit any animal to cause annoyance, alarm, or noise disturbance for more than 10 minutes at any time of the day or night, by repeated barking, whining, screeching, howling, braying, or other like sounds which can be heard beyond the boundary of the owner's property.
 - a. This section does not apply if the cause of the noise is the result of a permitted or conditional use within the City of Gunnison.
3. Property Damage. It shall be unlawful for an owner to allow an animal to injure or destroy any real or personal property of any description belonging to another. A judge may, in addition to any other penalty, order the defendant to make restitution to the party injured.
4. Excessive Number of Animals. It shall be unlawful for any person or persons in any dwelling unit to keep more than two dogs or two cats or a total of three dogs and cats within the municipality, with the exception that a litter of cats or dogs, or a portion of any such litter, may be kept for a period of time not exceeding three months from birth. The provisions of this subsection shall not apply to any commercial animal establishment or licensed breeder.
5. Excrement. No person shall appear with an animal upon the public ways, within public places, or upon the property of another, absent that person's consent, without some means for the removal of excrement; nor shall any person fail to remove any excrement deposited by such animal. This subsection shall not apply to a blind person while walking a guide dog.
6. Females in Heat. All female animals in heat shall be confined in a building or secure enclosure or upon a leash in such manner that the animal cannot come into contact with a male animal except for planned breeding.

7. Feral cats. Any property owner who allows or harbors a feral cat colony is responsible for the cats associated with that colony.

B. Procedures.

1. Hearing and Impoundment. Any person owning or having in his or her possession or under his or her control any animal constituting a nuisance in violation of this section may be summoned before a court of competent jurisdiction to show cause why such animal should not be confined, disposed of, or removed, or the nuisance otherwise abated. Upon hearing and a finding that the animal constitutes a public nuisance in violation of this section, the court shall order the animal in question either to be confined, to be disposed of, or to be removed, or such other relief as the court deems appropriate.
2. Cost of Impoundment. Any person who owns any animal that has been adjudged a nuisance pursuant to this section shall be responsible for the costs of disposal, removal, or impoundment.

5.40.070 Animal shelter.

A. Animal Shelter.

1. Establishment and Functioning.
The City of Gunnison, under the Gunnison Police Department, may establish an animal shelter or by contract utilize a licensed pet care facility for the housing of pet animals impounded or held in conformance to municipal ordinance or state statute. Any shelter established by the City of Gunnison or through contract shall:
 - a. Comply with Colorado Department of Agriculture license requirements;

B. Operations.

1. All animals authorized under this chapter to be impounded shall be captured by or turned over to either a police or an animal control officer and impounded in an approved animal shelter and there confined in a humane manner.
2. Impounded animals without owner identification shall be kept for not fewer than five days, during which time the description of the animal will be made available to the public at minimum by posting on the City of Gunnison official notification board, electronic posting and public posting at the shelter.
 - a. Pet animals which in the opinion of the animal control officer and their supervisor are deemed to be dangerous and no owner has been identified after 3 days becomes the property of the City of Gunnison and may be adopted or euthanized.
 - b. Pet animals, which in the opinion of a veterinarian, are experiencing extreme pain or suffering, may be disposed of immediately through euthanasia after reasonable efforts to contact the owner.
 - c. Feral cats which are unclaimed or from property where the owner has declined ownership become the property of the City of Gunnison, immediately upon impound and may be adopted or euthanized.
3. If, by a license tag or other means, the owner of an impounded animal can be identified, the animal control officer or impounding police officer shall immediately notify the owner. The five day holding period will begin once proof of notification has been made, if notification cannot be made the animal will be held for 10 days.
4. An owner reclaiming an impounded animal shall pay all fees set by City Council and recorded by resolution. Fee's assessed shall be based on initial pickup as well as a daily fee to cover expenses associated with housing and care. Fees will be in addition to any veterinary expenses incurred or fines which may be levied by the court. Council may also choose to set higher fees for repeat violations.
5. Any animal not reclaimed by its owner after notification is made or attempted as required in G.M.C. Section 5.40.070(B)(2) and (B)(3) of this section shall become the property of

the municipality and shall be made eligible for adoption in a suitable home or subject to humane euthanasia.

6. The police department shall keep complete and accurate records pertaining to the veterinary treatment, and disposition of all animals impounded or picked up by the police department.
7. It shall be unlawful for any person to remove an animal from the municipal owned or contracted animal shelter without first reclaiming the animal pursuant to the provisions of this section, or to interfere with an employee or volunteer of a contracted facility, animal control officer, neighborhood services officer, or a police officer while they are attempting to impound an animal.
8. Veterinarian services, including treatment, medication and vaccinations, provided to injured or sick animals while in impound will be at the owner's expense.

- C. Adoption. No unclaimed animal shall be released for adoption without written agreement from the adopter guaranteeing that such animal will be sterilized on or before a specified date.

5.40.080 Enforcement and penalties.

- A. Enforcement – General Procedures. Whenever there is any violation of any provisions of this chapter, the animal control officer, or any police officer, finding such violation may, except as otherwise provided herein, issue a summons and complaint or citation to the owner of or person responsible for the animal to appear in municipal court. Any hearing on the summons and complaint or citation shall be held no sooner than five days after the notice without the consent of the person to whom the summons and complaint or citation was issued.

B. Penalties.

1. Nuisance and Animal at Large Violations. Any person found guilty of permitting an animal to be at large, as defined in G.M.C. Section 5.40.050(A), or a nuisance, as defined in G.M.C. Section 5.40.060, shall be fined:
 - a. Upon presentation to the court of sufficient evidence the animal has been sterilized:
 - (1) Not less than \$15.00 nor more than the fine and sentence provisions allowed in G.M.C. Title 4 on conviction for the first offense;
 - (2) Not less than \$25.00 nor more than the fine and sentence provisions allowed in G.M.C. Title 4 on conviction for the second offense within a 12-consecutive-month period;
 - (3) Not less than \$50.00 nor more than the fine and sentence provisions allowed in G.M.C. Title 4 on conviction for all offenses subsequent to the second within a 12-consecutive-month period; in addition to or in lieu of the foregoing, the defendant may be ordered to remove such animal permanently from the municipality within 24 hours. Refusal or failure to comply may result in impoundment and disposal of the animal; or
 - b. When no sufficient evidence is presented to the court that the animal has been sterilized:
 - (1) Not less than \$30.00 nor more than the fine and sentence provisions allowed in G.M.C. Title 4 on conviction for the first offense;
 - (2) Not less than \$50.00 nor more than the fine and sentence provisions allowed in G.M.C. Title 4 on conviction for the second offense within a 12-consecutive-month period;
 - (3) Not less than \$100.00 nor more than the fine and sentence provisions allowed in G.M.C. Title 4 on conviction for the third offense within a 12-consecutive-month period; in addition to or in lieu of either of the foregoing, the defendant may be ordered to remove such animal

permanently from the municipality within 24 hours. Refusal or failure to comply may result in the impoundment and disposal of the animal.

2. Dangerous Dog or Vicious Animal Violations. Any person found guilty of keeping or maintaining a dangerous dog or vicious animal as defined by G.M.C. Section 5.40.050(B)(1) or 5.40.050(B)(2) may be:
 - a. Fined not less than \$25.00 nor more than the fine and sentence provisions allowed in G.M.C. Title 4; and
 - b. Ordered to have such animal destroyed within such period of time as ordered by the court.
3. In addition to any other penalties set forth in this section, the court may impose additional terms or conditions as the court deems appropriate.
3. Any violation of G.M.C. Chapter 5.40 is considered a misdemeanor violation and punishable in accordance with G.M.C. Title 4 and, G.M.C. Section 5.40.080 (1) and (2).


Section 2. If any section of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or the constitutionality of the remaining portions of the ordinance. The City Council of the City of Gunnison hereby declares that it would have passed this ordinance, and each section thereof, irrespective of the fact that any one or more sections be declared unconstitutional.

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED this 14th day of October, 2014, on first reading, and introduced, read, passed and adopted on second and final reading this 28th day of October, 2014.



ATTEST:


City Clerk


Mayor

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